

EXHIBIT A

FILED
6/21/2021 3:14 PM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

KIMBERLY BENTON,

Plaintiff,

v.

ORTHO CLINICAL DIAGNOSTICS, INC.

Defendants.

Case No.

2021L006350

Trial by jury demanded.

COMPLAINT AT LAW

COMES NOW Plaintiff, KIM BENTON, through her attorneys, Case + Sedey, LLC, and for her Complaint at Law against Defendant states as follows:

JURISDICTIONAL STATEMENT

1. Plaintiff Kim Benton (hereinafter "Plaintiff") is and was at all relevant times a resident of Skokie, Cook County, Illinois.
2. Defendant Ortho Clinical Diagnostics, Inc. (hereinafter "Defendant") is a New Jersey corporation doing business throughout the United States, the Americas and Global including but not limited to in Cook County, Illinois.
3. Venue is proper in this Court pursuant to 735 ILCS 5/2-102 in that the conduct which gives rise to this action occurred in Cook County, Illinois.
4. This Court has personal jurisdiction over Defendants pursuant to 735 ILCS 5/2-209.

5. On April 13, 2021, Plaintiff filed a Charge of discrimination with the Illinois Department of Human Rights (“IDHR”). Attached as Exhibit A is a copy of Plaintiff’s Charge.

6. On June 11, 2021, the IDHR granted Plaintiff her Right to Commence a Civil Action Notice. Attached as Ex. B is a copy of that Notice.

FACTS

7. Plaintiff is 65 years old and has more than 25 years’ experience in the healthcare industry.

8. On November 17, 2020, Plaintiff applied for a job with Defendant as a Regional Heath Systems Executive (“HSE”) - in the Upper Midwest. Plaintiff had all the qualifications that this role required.

9. On January 6, 2021, Allison Downing, Regional Sales Manager, contacted Plaintiff to discuss the job opening. Ms. Downing explained that she had the position in 2019 and most of 2020 but that she had left it in September of 2020 to move to a Regional Sales Manager role. This initial discussion with Ms. Downing went well.

10. Over the next couple of days, Plaintiff spoke with Marissa Amato, Defendant’s recruiter assigned to fill the position, and Wendy Greenberg, Regional Sales Manager in the Denver area. After those interviews, Ms. Amato told Plaintiff that she was a “strong candidate” and that all the feedback thus far was positive.

11. Then, on January 25, 2021, Plaintiff interviewed with Krissie Marsh, another Regional HSE. The feedback from that interview was positive as well.

12. On January 29, 2021, Ms. Downing emailed Plaintiff, said that the company wanted to choose a final candidate by the last week of February and asked Plaintiff to meet with her and Wendy Greenberg, in person on February 23, 2021. Plaintiff agreed.

13. February 8, 2021, Plaintiff had a WebEx interview with Audra Jones, Area Sales Director, Southwest and received positive feedback after that one as well.

14. On February 23, 2021, Plaintiff met in person with Ms. Downing and Ms. Greenberg near O'Hare Airport. Ms. Downing had driven from Milwaukee to attend, and Ms. Greenberg had flown into Chicago from Denver. During the interview both Ms. Downing and Ms. Greenberg were enthusiastic about Plaintiff joining their team and asked that she speak with two additional team members to ensure they connected well.

15. Over the next three days, Plaintiff spoke with the two team members, Lindsay Wiekart, CEM and Alex McNamara, CEM and received positive feedback from both.

16. On Friday, February 26, 2021, Ms. Downing told Plaintiff via email that she and Ms. Greenberg recommended that the company offer her the role and that she should have more information, specifics and start dates by end of business on Monday, March 1, 2021.

17. The evening of March 1, 2021, Plaintiff emailed Ms. Downing and Ms. Greenberg and asked for an update on the offer. Ms. Greenberg responded that same evening and told her that she was working with Human Resources to move the process forward.

18. On March 2, Ms. Amato reached out and assured Plaintiff that Ms. Downing and Ms. Greenberg were working on getting the approvals to move forward with her offer.

19. On March 5, 8 and 9 Plaintiff contacted Ms. Amato to inquire about the status but received no response. On March 9, 2021, Plaintiff finally talked with Ms. Downing. During this call Ms. Downing was clearly uncomfortable but told Plaintiff that the new President of the Americas, Warren Stone, had put the HSE role "on hold" and that it "would not be filled at that time."

20. Then, later that day, Ms. Amato finally called Plaintiff. Ms. Amato indicated that they had did not get approval "above Mr. Meckles" manager and that Mr. Stone had "stopped" it.

Ms. Amato told Plaintiff that Mr. Stone “wants to revalue the role and review candidate resumes.” However, Ms. Amato said nothing about Mr. Stone reviewing her resume, even though she was the top candidate. Moreover, Mr. Stone had never met or talked with Plaintiff.

21. On March 25, 2021, a position for Regional Health Systems Executive-Northern California (US - California) OCD Opps posted. This is the same role as the one Plaintiff applied to but located in Northern CA.

22. Then, on or around April 28, 2021, the company posted the Regional HSE Chicago position-the exact position for which Plaintiff had applied and interviewed for but located in Chicago, IL.

23. On May 3, 2021, the company posted the Regional Health Systems Executive - Upper Midwest and same job number, R0006071, and exact position for which the Plaintiff had interviewed and been the top candidate.

COUNT I
AGE DISCRIMINATION IN VIOLATION OF
THE ILLINOIS HUMAN RIGHTS ACT

24. Plaintiff incorporates paragraphs 1-23 as though fully stated herein.

25. Plaintiff interviewed with several managers, leaders and colleagues for the Regional HSE role.

26. John Meckles, Vice President of Commercial Operations, and the acting Area Sales Director over the Upper Midwest region approved the Plaintiff ‘s hire.

27. However, Warren Stone, President of the Americas, who had never met or talked with Plaintiff, ignored the recommendations of those who had interviewed her and refused to approve her hire.

28. The reasons Defendant gave for Mr. Stone's decision are false in that the position was not put on hold-it was posted just a few weeks later. Instead, Mr. Stone did not want to hire Plaintiff because of her age.

29. As a result of this failure to hire her based on her age, Plaintiff has suffered lost wages and benefits as well as emotional distress.

WHEREFORE, Plaintiff respectfully requests that this Court award her lost wages and benefits and compensatory and punitive damages in an amount to be determined at trial and attorneys' fees and costs incurred in bringing this Action.

JURY DEMAND

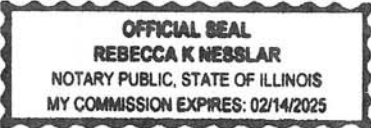
Plaintiff hereby demands trial by jury on all issues herein.

Respectfully Submitted,

KIM BENTON

By: /s/Kristin M. Case
One of Plaintiff's Attorneys

Kristin M. Case
Kate Sedey
Case + Sedey, LLC
250 South Wacker Dr., Ste. 230
Chicago, Illinois 60606
Tel. (312) 920-0400
Fax (312) 920-0800
Attorney No. 64366

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974: See Privacy act statement before completing this form.		AGENCY <input checked="" type="checkbox"/> IDHR <input type="checkbox"/> EEOC	CHARGE NUMBER <i>2021CA1570</i>
<i>2/11/04/13.08</i>			
Illinois Department of Human Rights and EEOC			
NAME (indicate Mr, Ms, Mrs.) Ms. Kim Benton		HOME TELEPHONE (include area code) 847-452-2374	
STREET ADDRESS 9725 Woods Dr., Unit 1607		CITY, STATE AND ZIP CODE Skokie, IL 60077	DATE OF BIRTH 08/09/1955
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (IF MORE THAN ONE LIST BELOW)			
NAME Ortho Clinical Diagnostics	NUMBER OF EMPLOYEES, MEMBERS 15+	TELEPHONE (include area code) 1-800-828-6316	
STREET ADDRESS 1001 Route 202	CITY, STATE AND ZIP CODE Raritan, NJ 08869	COUNTY Somerset	
NAME	TELEPHONE (include area code)		
STREET ADDRESS	CITY, STATE AND ZIP CODE	COUNTY	
CAUSE OF DISCRIMINATION BASED ON: Age Discrimination		DATE OF DISCRIMINATION EARLIEST (ADEA/EPA) LATEST (ALL) 03/09/2021 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (if additional space is needed attach extra sheets) Please see attached for Particulars			
I also want this charge filed with the EEOC. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		SUBSCRIBED AND SWORN TO BEFORE ME ON THIS <i>Rebecca K. Nesslar</i> 04/12/2021 NOTARY SIGNATURE MONTH DATE YEAR	
 NOTARY SEAL		X <i>Kim Benton</i> 4/12/2021 SIGNATURE OF COMPLAINANT DATE I declare under penalty that the foregoing is true and correct I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	

FORM 5 (5/05)

**I. A. ISSUE/BASIS
AGE DISCRIMINATION**

B. PRIMA FACIE ALLEGATIONS

1. I am a 65-year-old female with 25 years' experience in the healthcare industry.
2. On November 17, 2020, I applied for the HSE-Upper Midwest role at Ortho Clinical Diagnostics on their workday site.
3. On January 6, 2021, Allison Downing, Regional Sales Manager, contacted me to discuss the opening. This initial discussion went very well. Over the next few days, I interviewed with Marissa Amato, the recruiter assigned to fill the position, and Wendy Greenberg, RSM in the Denver area. Ms. Amato told me that I was a strong candidate and that all the feedback thus far had been positive.
4. On January 25, 2021, I interviewed with Krissie Marsh, another regional HSE. This interview also went very well. On January 29, I received an email from Ms. Downing which said that the company wanted to choose a candidate by the last week of February. She asked that I meet with her and Wendy Greenberg in person on February 23, 2021. I agreed to the meeting.
5. Meanwhile, on February 8, 2021, I had a WebEx interview with Audra Jones, ASD, Southwest. I received positive feedback.
6. I met with Ms. Downing and Ms. Greenberg on February 23 in person at a hotel near O'Hare airport as scheduled. Ms. Greenberg flew into Chicago from Denver and Ms. Downing drove down from Milwaukee to meet me. Both women were very enthusiastic throughout the meeting and asked that I speak with team members Lindsay Weikart, CEM and Alex McNamara, CEM, to ensure we connected well.
7. I spoke with both team members over the next few days and received positive feedback from both.
8. On February 26, 2021, Ms. Downing updated me via email that she and Ms. Greenberg had recommended that the company offer me the role and that I would have more information by end of business on Monday, March 1.
9. On March 1, 2021, I emailed Ms. Downing and Ms. Greenberg asking for an update on the offer. Ms. Greenberg told me the company was dealing with an emergency but that she was working with Human Resources to move the process forward. On March 2 Ms. Amato assured me that Ms. Downing and Ms. Greenberg were working on getting the approvals to move forward. She advised me to stay tuned. Shortly after, Ms. Downing and Ms. Greenberg let

me know that John Meckles, Vice President of Commercial Operations, was the next step in the approval process. After that, things went silent.

10. On March 5, 8 and 9th I phoned Ms. Amato to inquire about the status and received no response.
11. On March 9th I did not know what to do so I called Ms. Downing. She was clearly uncomfortable but told me that the new President, Americas, Warren Stone, had put this HSE role "on hold" with no indication of reversal.
12. Ms. Amato called me later that day and told me that they could not get approval above John Meckles and that Mr. Stone had "stopped" it and that "he wants to revalue the role and review candidate resumes." Ms. Amato said nothing about Mr. Stone reviewing my resume despite my qualifications and extremely successful interviews and positive feedback from everyone I spoke and met with during the process.
13. On March 25, 2021 a position for Regional Health Systems Executive-Northern California (US - California) OCD Opps posted. This is the exact same role except located in Northern CA.
14. I believe that Mr. Stone removed me from consideration because of my age (65).

STATE OF ILLINOIS)

) ss

COUNTY OF COOK)

CHARGE NO. 2021CA1570

AFFIDAVIT OF SERVICE

Monica Vandeven, deposes and states that s/he served a copy of the attached **NOTICE OF OPT OUT OF THE INVESTIGATIVE AND ADMINISTRATIVE PROCESS, RIGHT TO COMMENCE AN ACTION IN CIRCUIT COURT OR OTHER APPROPRIATE COURT OF COMPETENT JURISDICTION, AND ORDER OF ADMINISTRATIVE CLOSURE** on each person named below by depositing the same on June 11, 2021, in the U.S. Mail Box at 100 West Randolph Street, Chicago, Illinois, properly posted for FIRST CLASS MAIL, addresses as follows:

For Complainant

Kristin Case
Case + Sedey LLC
250 S Wacker Dr
Ste 230
Chicago IL 60606

For Respondent

Chief Executive Officer
Ortho Clinical Diagnostic
1001 Rte 202
Raritan NJ 08869

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.



Monica Vandeven

PLEASE NOTE:

The above-signed person is responsible only for mailing these documents. Illinois Department of Human Rights' staff are not permitted to discuss the investigation findings once a Notice of Dismissal or Order of Closure has been issued.

**STATE OF ILLINOIS
DEPARTMENT OF HUMAN RIGHTS**

IN THE MATTER OF:

KIM BENTON,

COMPLAINANT,

AND

ORTHO CLINICAL DIAGNOSTIC,

RESPONDENT.

CHARGE NO.

2021CA1570

EEOC NO.

N/A

**NOTICE OF OPT OUT OF THE INVESTIGATIVE AND ADMINISTRATIVE PROCESS,
RIGHT TO COMMENCE AN ACTION IN CIRCUIT COURT OR OTHER APPROPRIATE
COURT OF COMPETENT JURISDICTION, AND ORDER OF ADMINISTRATIVE CLOSURE**

For Complainant

Kristin Case
Case + Sedey LLC
250 S Wacker Dr
Ste 230
Chicago IL 60606

For Respondent

Chief Executive Officer
Ortho Clinical Diagnostic
1001 Rte 202
Raritan NJ 08869

Date Perfected Charge Filed: Apr 13, 2021

Date Opt Out Request Filed: May 24, 2021

YOU ARE HEREBY NOTIFIED that pursuant to Section 7A-102(C-1) of the Illinois Human Rights Act (775 ILCS 5/7A-102(C-1)), Complainant having filed a written request to opt out of the Illinois Department of Human Rights' investigation and administrative processing of the above-captioned charge, the IDHR issues this Notice of Opt Out of the Investigative and Administrative Process, and the Right of Complainant to Commence an Action in the Circuit Court or other appropriate court of competent jurisdiction within 95 days from the date of this Notice and Order, as identified above.

- Complaint filed and serve a copy of the complaint to the Department and Respondent on the same date that the complaint is filed with the circuit court or other appropriate court of competent jurisdiction.
- Complainant may not file or refile a substantially similar charge with the Department arising from the same incident of unlawful discrimination or harassment.

NOW, THEREFORE, it is further hereby ORDERED that the Department cease the investigation and administratively close the charge of civil rights violation(s).

ENTERED ON June 11, 2021

DEPARTMENT OF HUMAN RIGHTS

BY: 
Brent A. Harzman, Manager
Charge Processing Division